

**Attorney General Eric H. Holder, Jr.**  
**Department of Justice National Symposium on**  
**Indigent Defense: Looking Back, Looking Forward, 2000–2010**  
**February 18, 2010**

Thank you, Laurie. It's an honor to join with you and my old friend, Tree, in opening today's conference and welcoming our participants. Many of you have traveled from all across the country to be here, and I want to thank each of you for your engagement, for your service to your communities, and for your commitment to the principles

that define who we are, and who we can be, as a nation.

For well over two centuries now, we, as a people, have been striving to build a more perfect union – an America that lives up to the vision of our Founders. A country where the words of our Constitution can, finally, reach the full measure of their intent.

It is no less than this ongoing work – the fulfillment of our Constitution – that

brings us together today. I'm here to discuss a responsibility that we, as stewards of our nation's criminal justice system, all share – a responsibility to ensure the fairness and integrity of that system.

I would argue that our criminal justice system is one of the most distinctive aspects of our national character. And I also would argue that it is one of the most praiseworthy. That

said, we must face facts. And the facts prove that we have a serious problem on our hands.

Nearly half a century has passed since the Supreme Court's decision in *Gideon v. Wainwright*. The Court followed with other decisions recognizing the right to counsel in juvenile and misdemeanor cases. Today, despite the decades that have gone by,

these cases have yet to be fully translated into reality.

But you already know this. All of you have read the reports and know the data. And many of you have learned this truth in the hardest of ways – by experiencing it on the ground. You've seen how, in too many of our counties and communities, some people accused of crimes – including juveniles – may *never* have a lawyer, either entirely or

during a critical stage of the proceedings against them. In fact, juveniles sometimes waive their right to counsel without *ever* speaking to an attorney to help them understand what they are giving up. And our courts accept these waivers.

Meanwhile, recent reports evaluating state public defense systems are replete with examples of defendants who have

languished in jail for weeks, or even months, before counsel was appointed.

When lawyers *are* provided to the poor, too often they cannot represent their clients properly due to insufficient resources and inadequate oversight – that is, without the building blocks of a well-functioning public defender system, the type of system set forth in the ten principles of the American Bar

# Association and the National Juvenile Defender Center.

As we all know, public defender programs are too many times underfunded. Too often, defenders carry huge caseloads that make it difficult, if not impossible, for them to fulfill their legal and ethical responsibilities to their clients. Lawyers buried under these caseloads often can't interview their clients properly, file appropriate motions,

conduct fact investigations, or spare the time needed to ask and apply for additional grant funding. And the problem is about more than just resources. In some parts of the country, the primary institutions for the delivery of defense to the poor – I’m talking about basic public defender systems – simply do not exist.

I continue to believe that if our fellow citizens knew about the extent of this

problem, they would be as troubled as you and I. Public education about this issue is critical. For when equal justice is denied, we all lose.

As a prosecutor and former judge, I know that the fundamental integrity of our criminal justice system, and our faith in it, depends on effective representation on both sides. And I recognize that some may perceive the goals of those who represent our federal, state, and local

governments and the goals of those who

represent the accused as forever at odds.

I reject that premise. Although they may

stand on different sides of an argument,

the prosecution and the defense can, and

must, share the same objective: Not

victory, but justice. Otherwise, we are

left to wonder if justice is truly being

done, and left to wonder if our faith in

ourselves and in our systems is

misplaced.

But problems in our criminal defense system aren't just morally untenable. They're also economically unsustainable. Every taxpayer should be seriously concerned about the systemic costs of inadequate defense for the poor. When the justice system fails to get it right the first time, we all pay, often for years, for new filings, retrials, and appeals. Poor systems of defense do not make economic sense.

So, where do we go from here?

I want to speak with you clearly and honestly about this. In the last year, I have thought about, studied, and discussed the current crisis in our criminal defense system. What I've learned, and what I know for sure, is that there are no easy solutions. No single institution – not the federal government, not the Department of Justice, not a single state – can solve the problem on

its own. Progress can only come from a sustained commitment to collaboration with diverse partners.

I expect every person in this room to play a role in advancing the cause of justice. Yes, everyone. And, yes, I say this with the knowledge that we have some unlikely partners among us. Some might wonder what the United States Attorney General is doing at a conference largely about the defense that

poor people receive in state and local

courts.

Likewise, many of you – the local officials, budget officers, and prosecutors gathered here – have not traditionally been engaged in discussions about the right to counsel. But all of us should share these concerns. It must be the concern of every person who works on behalf of the public good and in the pursuit of justice. That's what this

conference is all about – expanding and improving this work; learning from each other; recruiting new partners; and making sure that, for our criminal defense community, government is viewed as an ally, not an adversary.

In particular, I think our common work must have three areas of focus. I've touched on each of these goals over the last year. But all of them are worth mentioning here again today.

First, we must commit to an ongoing dialogue about these issues. We need partners at the federal, state, and local levels, both within and outside of government, to be involved. By sharing information and working together, I believe we can build on the good work that has gone into developing model standards for our public defense systems

Second, we must raise awareness about what we're up against. As

Americans understand how some of their fellow citizens experience the criminal justice system, they will be shocked and angered – feelings I hope would compel them to become advocates for change and allies in our work.

Third, we must expand the role of the public defender. We must encourage defenders to seek solutions beyond our courtrooms and ensure that they're involved in shaping policies that will

empower the communities they serve.

I'm committed to making sure that public defenders are at the table when we meet with other stakeholders in the criminal justice system. I have charged the Department's leadership with calling on our components to include members of the public defense system in a range of meetings. We will also involve defenders in conferences, application review panels, and other venues where a

public defense perspective can be valuable. And it should not go without saying – every state should have a public defender system. Every state.

In all of this, I stand with you and with anyone who is committed to ensuring the Sixth Amendment right to counsel. Last year, when I became Attorney General, I took an oath to support and defend the Constitution of the United States. I also made a promise.

A promise to the citizens I serve and the colleagues I work alongside. A promise to guard the rights of all Americans and make certain that, in this country, the indigent are not invisible.

So let me assure you today that this is not a passing issue for the Department. I have asked the entire Department of Justice – in my office, in Laurie Robinson’s, and in components as diverse as the Office of Legal Policy and

the Criminal Division – to focus on indigent defense issues with a sense of urgency and a commitment to developing and implementing the solutions we need.

In the coming weeks, we will take concrete steps to make access to justice a permanent part of the work of the Department of Justice, with a focused effort by our leadership offices to ensure the issue gets the attention it deserves.

Government must be a part of the solution – not simply by acting as a convener but also by serving as a collaborator.

Once again, we stand at the beginning of a new decade. We must seize this opportunity to return to the beliefs that guided our nation's founding and to renew the strength of our justice system.

I have every expectation that our criminal defense system can, and will, be a source of tremendous national pride.

And I know that achieving this requires the best that we, as a profession and as a people, have to offer.

I pledge my own best efforts. And, today, I ask for yours.

Thank you.